IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

WP(C).No. 15248 of 2007(M)

PETITIONER:

MRS.NAJUMUNISA, AGED 34 YEARS,
W/O. MUHAMMED KASIM, PALATHULI, PALAKKAD, NOW RESIDING AT HOUSE NO. 0010, NORTH HOUSING UNIT, SELVAPURAM, COIMBATORE.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:

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1. THE EXCISE INSPECTOR,
EXCISE RANGE OFFICE, PALAKKAD.

2. THE ASSISTANT EXCISE COMMISSIONER,
PALAKKAD.

3. XPS, 514-G, E.K.THOTTAM,
MAIN SATHY ROAD NEAR RAILWAY OVERBRIDGE,
LAKSHIPURAM GANAPATHY, COIMBATORE - 641 006
REPRESENTED BY ITS ZONAL MANAGER, R.S.GOUTHAM.

BY GOVERNMENT PLEADER SRI. I.V. PROMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO. 15248 OF 2007

DATED THIS THE 24th DAY OF MAY, 2007

JUDGMENT

The petitioner's vehicle bearing registration No.KL-8/H-225 was seized on allegations of transport of illicit spirit, in respect of which, a case has been registered as CR.No.5/07 of Excise Range, Palakkad. Confiscation proceedings are in progress in respect of the vehicle. The petitioner seeks interim custody of the vehicle pending confiscation proceedings. The petitioner submits that the vehicle may be released to the petitioner on the petitioner furnishing bank guarantee for the value of the vehicle.

2. The learned Government pleader stoutly opposes the same. According to him as per Rule 4(2)(a) of the Kerala Abkari (Disposal of confiscated Articles) Rules 1996, the petitioner has to deposit the value of the vehicle as assessed by a Mechanical Engineer and since the rules prescribe this specific mode of granting interim custody, the petitioner can be given interim custody of the vehicle only in accordance with rules.

3. The learned counsel for the petitioner submits that he has produced sufficient materials to prima facie show that the owner of the

vehicle was not in any way in the knowledge of the illicit transport of the spirit and therefore he is entitled to release of the vehicle on furnishing bank guarantee.

4. Taking into account the facts and circumstances of the case, I am satisfied that the petitioner can be given interim custody of the vehicle on furnishing bank guarantee. Accordingly, the writ petition is disposed of with the following directions.

The 2nd respondent shall get the value of the vehicle assessed by competent/authorised officer of the Department and he shall inform the petitioner the value of the vehicle as assessed by the officer within one week from the date of receipt of a copy of this judgment. On the petitioner furnishing bank guarantee for that amount, he shall be granted interim custody of the vehicle pending confiscation proceedings under the Abkari Act. The 2nd respondent shall complete the confiscation proceedings as expeditiously as possible. The above is subject to the condition that the petitioner shall produce proof of ownership of the vehicle and the further condition that the petitioner shall not alienate or otherwise part with possession of the vehicle till final orders are passed in the confiscation proceedings.

S. SIRI JAGAN, JUDGE

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